



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,026	08/18/2003	Steven Vanhamel	ATMI-624	3218
25559	7590	12/28/2005	EXAMINER	
ATMI, INC. 7 COMMERCE DRIVE DANBURY, CT 06810			BRUENJES, CHRISTOPHER P	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,026

Applicant(s)

VANHAMEL ET AL.

Examiner

Christopher P. Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14, 17-31, 34 and 37-79 is/are pending in the application.
- 4a) Of the above claim(s) 50-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14, 17-31, 34 and 37-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 2, 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-11, 14, 17-31, 34, and 37-49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art

Art Unit: 1772

that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 22, the limitations that the second layer "consists essentially of polyethylene" and the peelable film of the second layer "consists essentially of polyethylene" have not been described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the invention that second layer is limited to polyethylene and materials that do not materially affect the basic and novel characteristics of the claimed invention. Specifically, the specification only states that the second layer contains polyethylene in open language. Statements in a specification saying that the peelable sheet is desirably a peelable polyethylene sheet does not convey to one skilled in the relevant art that the polyethylene sheet does not include other materials that would change the molecular weight and other characteristics of the sheet. One of ordinary skill in the art would have expected that polyethylene blended or copolymerized with other polyolefins or polymers would still be considered a polyethylene sheet and that polyethylene sheet would not limit the sheet to only polyethylene.

Art Unit: 1772

Furthermore, the limitation that the second layer is sealed to the first layer "over its entire contacting surface" has not been described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the invention that second layer is limited to polyethylene and materials that do not materially affect the basic and novel characteristics of the claimed invention. Specifically, the specification only states that the second layer is in sealing contact with the porous sheet, which does not specify whether the layer is sealed over its entire contacting surface or just at certain locations within its entire contacting surface. Also, Figures 1 and 2 do not show whether the film is sealed over its entire contacting surface. Figure 1 is only a portion of the package so it does not provide a teaching of the entire contacting surface and there is no showing that there is a seal across the entire surface that is shown only that it is contacting. Figure 2, is a top view so there is no way to determine if both layers are present throughout the entire package and no showing of a seal across the entire contacting surface.

Regarding claims 14 and 34, the limitation that the backing layer "consists essentially of polyethylene" has not been

Art Unit: 1772

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the invention that second layer is limited to polyethylene and materials that do not materially affect the basic and novel characteristics of the claimed invention. Specifically, the specification only states that the backing material is for example polyethylene. This statement does not describe to one of ordinary skill in the art that the backing material scope of the materials forming the backing material is only polyethylene and materials that do not materially affect the basic and novel characteristics of the claimed invention. One of ordinary skill in the art would have expected that polyethylene blended or copolymerized with other polyolefins or polymers would still be considered polyethylene and that the term polyethylene is not limiting to only non-blended homopolymers of ethylene.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11, 14, 17-31, 34, 37-49 are rejected under 35

U.S.C. 112, second paragraph, as being indefinite for failing to

Art Unit: 1772

particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 22, the limitation starting at "a second layer" in line 3 of claim 1 and line 6 of claim 22 and ending with "the first layer of porous material" in line 6 of claim 1 and line 9 of claim 22 is replete with language that renders the claim vague and indefinite. First, it is not understood how "the second layer" can be formed of multiple layers. It is suggested for claim 14 that if multiple layers for "the second layer" are desired, which is apparent in claim 14, and since the preamble states "a multilayer web article" that the "first layer" be replaced with "first web" and the "second layer" be replaced with "second web". In the same manner, in claim 22, the "first layer" should be replaced with the "first sheet" and the "second layer" be replaced with "second sheet". In this way it will be more definite that more than one layer is considered for each of the first and second layers as claimed. Second, the "consisting essentially of" language in line 3 of claim 1 and line 6 of claim 22 conflicts with the "comprising" language in claim 5 of claim 1 and line 8 of claim 22. It is not understood how the scope of the second layer can be partially closed in one part of the claim and fully open in another. Third, the limitation "in contact with and

Art Unit: 1772

sealed to the first layer over its entire contacting surface" renders the claim vague and indefinite because it is not understood if the limitation is requiring that the second layer is "in contact with the first layer over its entire contacting surface and sealed over that same surface" or if the limitation is only requiring that "the first and second layers are in contact with each other and that over that entire contacting surface the layers are sealed" or finally, if the limitation is requiring that "the second layer is in contact with the first layer over its entire contacting surface and is sealed to the first layer within that contact. Finally, "its" in line 4 of claim 1 and line 7 of claim 22 lacks antecedent basis because it is not definite whether "its" is referring to the second layer or the first layer.

Regarding claims 14 and 34, it is not understood how the second layer can "further comprise a backing layer" when in claims 1 and 22, within which they respectively depend, the second layer is limited in scope to be partially closed.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 1772

4. The 35 U.S.C. 102 rejections of claims 1-2, 5-6, 10, 14, 17-22, 25-26, 30, 34, 37-41, and 43-46 are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 5-7 Paragraph 4, and in the Office Action mailed August 2, 2005, Pages 2-3 Paragraph 2, but are repeated below for clarification purposes in light of the new amendments to the claims.

Claims 1-2, 5-6, 10, 14, 17-22, 25-26, 30, 34, 37-41, and 43-46 rejected under 35 U.S.C. 102(b) as being anticipated by Hirsch et al (USPN 4,055,672).

Regarding claim 1, Hirsch et al anticipate a multilayer web material (reference number 14, 42, or 14'' in Figures 1, 3, or 5 respectively) comprising a first layer of a porous material (reference numbers 22, 46, or 22'' in Figures 1, 3, or 5 respectively) and a second layer (reference numbers 24 and 26 combined, 48 and 50 combined, or 24'' in Figures 1, 3, or 5, respectively). Note the limitation "a second layer consisting essentially of polyethylene overlying, in contact with and sealed to the first layer over its entire contacting surface, said second layer (i) being non-porous to passage of gas therethrough and (ii) comprising a peelable film consisting essentially of polyethylene in direct facial contact with the first layer of porous material" is given its broadest reasonable

Art Unit: 1772

interpretation. Specifically, "consisting essentially of" is being construed as equivalent to "comprising" because there is no clear indication in the specification or claims of what the basic and novel characteristics actually are. See MPEP 2111.03. Without this clear indication it is impossible to determine what materials are excluded since only materials that would affect the basic and novel characteristics of the claimed invention would be excluded. The only characteristic in the specification or claims that might be considered a basic and novel characteristic for the second is that the material must be non-porous to passage of gas therethrough and that the peelable film must be peelable. In this case, Hirsch et al teach that the outer gas barrier or second layer is polyethylene in combination or co-extruded with polyester, nylon, cellophane, polypropylene, polyvinyl acetate, or saran, and that the layer must be gas impermeable (col.4, 1.56-62). Therefore, because the other materials blended or co-extruded with polyethylene do not materially affect the characteristic of the layer with regard to being non-porous to passage of gas, they are not excluded by the limitation. In the same manner, the peelable film of Hirsch et al, whether it be the second layer itself as shown in Figure 5 or a separate adhesive layer as shown in Figures 1 and 3, comprises polyethylene copolymerized with other materials but

Art Unit: 1772

the adhesive is still peelable, which is the only novel and basic characteristic of the material suggested in the specification. Therefore, polyethylene-vinyl acetate copolymers and polyethylene imine primers are not excluded from the scope of the limitation consisting essentially of polyethylene. The limitation, "in contact with and sealed to the first layer over its entire contacting surface" in its broadest reasonable interpretation is determined to require that the second layer overlies, be in contact with and sealed to the first layer over the entire surface that is in contact. This limitation does not require that one entire surface of the first layer is in contact with one entire surface of the second layer. Also this limitation only requires that the contacting surface be fully sealed and does not necessarily mean that adhesive or a welding line is present on every point of the contacting surface. Hirsch et al teach that the second layer is overlying, in contact with, and sealed to the first layer via a peelable adhesive (reference number 26, Figure 1 or reference number 50, Figure 3) or direct weld of reference numbers 24'' and 22''. The second layer is non-porous to passage of gas therethrough and comprises a peelable film in contact with the first layer of porous material, and the peelable film permits the peel removal of the second layer from the first layer to expose the first

layer of porous material for passage of gas therethrough (see abstract).

Regarding claim 22, Hirsch et al teach that the multilayer web material is a lid component of a packaging article. The limitation "useful for pressurization integrity testing and after pressurization integrity testing being permeable to sterilant gas for sterile packaging of a product article disposed therein" receives little patentable weight because it is a functional limitation in an article claim. Although every limitation is given consideration, articles are defined by what the article is, not what the article does. See MPEP 2114. In this case, Hirsch et al anticipate the structural limitations of claim 22 and the packaging article is capable of being used for the same purpose claimed in claim 22 because it has a permeable layer and a peel removable impermeable layer overlying and sealed to the permeable layer for removal to expose the permeable layer to passage of gas.

Regarding claims 2, 5-6, 10, 25-26, and 30, Hirsch et al teach that the first layer comprises polyethylene (col.4, 1.34-43). Regarding claims 14 and 34, Hirsch et al teach that the second layer is comprised of impermeable materials such as polyester, nylon, cellophane, polypropylene, polyvinyl acetate, or saran in combination with polyethylene (col.4, 1.56-65). See

Art Unit: 1772

the argument regarding "consisting essentially of" with regards to claim 1 for how the combination taught over anticipates the limitations of claims 14 and 34. Regarding claims 17-18 and 37-41, Hirsch et al teaches that the multilayer web in one embodiment is a lid material for a tray package, in which the tray is formed of a non-porous structural component (reference number 12, Figure 1) in the form of a sheet or shaped member (Figure 1) and in a second embodiment the multilayer web is a wall or structural component of a bag adapted to hold a product article therein (col.3, 1.10-13 and Figure 3). Regarding claims 19-21 and 43-46, the limitations regarding the properties and type of product article packaged in the multilayer web article receives little patentable weight, because they are intended use limitations. Articles are defined by what the article is, not what the article does. In this case, the article of Hirsch et al based on the structure of the article would be capable of being used to package an article that must be sterile, a medical device, or pharmaceutical agent, and therefore Hirsch et al anticipate claims 19-21 and 43-46.

5. The 35 U.S.C. 102 rejections of claims 1-2, 5-11, 17-22, 25-31, 40, and 43-46 are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 7-10

Paragraph 5, and in the Office Action mailed August 2, 2005, Pages 3-4 Paragraph 3, but are repeated below for clarification purposes in light of the new amendments to the claims.

Claims 1-2, 5-6, 10, 17-22, 25-26, 30, 37-41, and 43-46 rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al (USPN 5,418,022).

Regarding claim 1, Anderson et al anticipate a multilayer web material (reference number 10, Figure 1) comprising a first layer of a porous material (reference number 12, Figure 1) and a second layer (reference number 20, Figure 1). Note the limitation "a second layer consisting essentially of polyethylene overlying, in contact with and sealed to the first layer over its entire contacting surface, said second layer (i) being non-porous to passage of gas therethrough and (ii) comprising a peelable film consisting essentially of polyethylene in direct facial contact with the first layer of porous material" is given its broadest reasonable interpretation. Specifically, "consisting essentially of" is being construed as equivalent to "comprising" because there is no clear indication in the specification or claims of what the basic and novel characteristics actually are. See MPEP 2111.03. Without this clear indication it is impossible to determine what materials are excluded since only materials that would affect

Art Unit: 1772

the basic and novel characteristics of the claimed invention would be excluded. The only characteristic in the specification or claims that might be considered a basic and novel characteristic for the second layer is that the material must be non-porous to passage of gas therethrough and that the peelable film must be peelable. In this case, Anderson et al teach that the second layer is polyethylene (col.2, 1.8-11). The second layer is non-porous to passage of gas therethrough and comprises a peelable film in contact with the first layer of porous material, and the peelable film permits the peel removal of the second layer from the first layer to expose the first layer of porous material for passage of gas therethrough, because when the second layer is removed the first layer would be exposed from the direction the second layer was overlying (see abstract). The limitation, "in contact with and sealed to the first layer over its entire contacting surface" in its broadest reasonable interpretation is determined to require that the second layer overlie, be in contact with and sealed to the first layer over the entire surface that is in contact. This limitation does not require that one entire surface of the first layer is in contact with one entire surface of the second layer. Also this limitation only requires that the contacting surface be fully sealed and does not necessarily mean that adhesive or a

Art Unit: 1772

welding line is present on every point of the contacting surface. Anderson et al teach that the second layer is overlying and in contact with the first layer over the entire surface that it is contact with the first layer as shown in Figure 1. Also, the first and second layers are completely sealed over the entire contacting surface, because the seal is present around the entire perimeter that the surfaces are contacting. Therefore, although the weld line (reference 30, Figure 1) is not shown covering every point of the entire contacting surface the limitation is still met because the second layer is still sealed over its entire contacting surface because there is no way to insert something between the two sheets without breaking the seal.

Regarding claim 22, Anderson et al teach that the multilayer web material is a lid component of a packaging article. The limitation "useful for pressurization integrity testing and after pressurization integrity testing being permeable to sterilant gas for sterile packaging of a product article disposed therein" receives little patentable weight because it is a functional limitation in an article claim. Although every limitation is given consideration, articles are defined by what the article is, not what the article does. See MPEP 2114. In this case, Anderson et al anticipate the

Art Unit: 1772

structural limitations of claim 22 and the packaging article is capable of being used for the same purpose claimed in claim 22 because it has a permeable layer and a peel removable impermeable layer overlying and sealed to the permeable layer for removal to expose the permeable layer to passage of gas regardless of whether the permeable layer could be exposed to the passage of gas without removing the impermeable layer.

Regarding claims 2, 5-11 and 25-31, Anderson et al teach that the first layer comprises TYVEK spunbonded olefin (col.2, 1.57-63) and teaches that TYVEK is spunbonded olefin sheet of high density polyethylene fibers formed by flash spinning continuous strands of ultrafine interconnected fibers, dispersing them onto a moving belt and then bonding them together with heat and pressure into a multi-layer sheet (col.1, 1.15-25). Regarding claims 17-18 and 40, Anderson et al teach the multilayer web article is incorporated in packaging as a structural component thereof as being the entire package, and because the structure of a bag is merely a container of flexible material for containing items the article of Anderson et al anticipates claims 18 and 40. Regarding claims 19-21 and 43-46, the limitations regarding the properties and type of product article packaged in the multilayer web article receives little patentable weight, because they are intended use limitations.

Art Unit: 1772

Articles are defined by what the article is, not what the article does. In this case, the article of Anderson et al explicitly teaches that the package is used to package an article that must be sterile and a medical device (see abstract) and based on the structure of the article would be capable of being used to package a pharmaceutical agent, and therefore Anderson et al anticipate claims 19-21 and 43-46.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Hirsch in view of Brown are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 11-12 Paragraph 6.

7. The 35 U.S.C. 103 rejections of claims 7-9, 11, 27-29, 31, 42, and 47-49 over Hirsch in view of Anderson are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 12-15 Paragraph 7.

8. The 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Anderson in view of Brown are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Page 16 Paragraph 8.

ANSWERS TO APPLICANT'S ARGUMENTS

9. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1-2, 5-6, 10, 14, 17-22, 25-26, 30, 34, 37-41, and 43-46 as anticipated by Hirsch have been fully considered but they are not persuasive.

In response to Applicant's argument that Hirsch fail to teach that the second layer consists essentially of polyethylene, "consisting essentially of" is being construed as equivalent to "comprising" because there is no clear indication in the specification or claims of what the basic and novel characteristics actually are. See MPEP 2111.03. Without this clear indication it is impossible to determine what materials are excluded since only materials that would affect the basic and novel characteristics of the claimed invention would be excluded. The only characteristic in the specification or claims that might be considered a basic and novel characteristic for the second is that the material must be non-porous to passage of gas therethrough and that the peelable film must be

Art Unit: 1772

peelable. In this case, Hirsch et al teach that the outer gas barrier or second layer is polyethylene in combination or co-extruded with polyester, nylon, cellophane, polypropylene, polyvinyl acetate, or saran, and that the layer must be gas impermeable (col.4, 1.56-62). Therefore, because the other materials blended or co-extruded with polyethylene do not materially affect the characteristic of the layer with regard to being non-porous to passage of gas, they are not excluded by the limitation. In the same manner, the peelable film of Hirsch et al, whether it be the second layer itself as shown in Figure 5 or a separate adhesive layer as shown in Figures 1 and 3, comprises polyethylene copolymerized with other materials but the adhesive is still peelable, which is the only novel and basic characteristic of the material suggested in the specification. Therefore, polyethylene-vinyl acetate copolymers and polyethylene imine primers are not excluded from the scope of the limitation consisting essentially of polyethylene.

10. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1-2, 5-11, 14, 17-22, 25-31, 34, 40, and 43-46 as anticipated by Anderson have been fully considered but they are not persuasive.

In response to Applicant's argument that the second layer of Anderson is not in contact with and sealed to the first layer over its entire contacting surface, "in contact with and sealed to the first layer over its entire contacting surface" in its broadest reasonable interpretation is determined to require that the second layer overlie, be in contact with and sealed to the first layer over the entire surface that is in contact. This limitation does not require that one entire surface of the first layer is in contact with one entire surface of the second layer. Also, this limitation only requires that the contacting surface be fully sealed, and does not necessarily mean that adhesive or a welding line is present on every point of the contacting surface. Anderson et al teach that the second layer is overlying and in contact with the first layer over the entire surface that it is contact with the first layer as shown in Figure 1. Also, the first and second layers are completely sealed over the entire contacting surface, because the seal is present around the entire perimeter that the surfaces are contacting. Therefore, although the weld line (reference 30, Figure 1) is not shown covering every point of the entire contacting surface the limitation is still met because the second layer is still sealed over its entire contacting surface

Art Unit: 1772

because there is no way to insert something between the two sheets without breaking the seal.

11. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Hirsch in view of Brown have been fully considered but they are not persuasive.

In response to Applicant's argument that Brown does not solve the supposed deficiencies pointed out with regard to the independent claims being anticipated by Hirsch, see the response to those arguments above.

12. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 7-9, 11, 27-29, 31, 42, and 47-49 over Hirsch in view of Anderson have been fully considered but they are not persuasive.

In response to Applicant's argument that Brown does not solve the supposed deficiencies pointed out with regard to the independent claims being anticipated by Hirsch, see the response to those arguments above.

In response to Applicant's argument that claims 48 and 49 are not obvious over Hirsch and Anderson, Hirsch teaches at least one embodiment in which the peelable adhesive layer has a bond strength of 5 lbs/inch, which is equivalent to 13.135 N per

Art Unit: 1772

15 millimeters (col.7, 1.54-56). Hirsch also teaches that the bond strength of the seal between the tray and the inner layer is selected in order to ensure that the adhesive layer between the first and second layers is the only bond that breaks when the layers are separated (col.5, 1.51 - col.6, 1.6). Therefore, Hirsch teaches that the bond strength for the seal between the tray and inner layer must be in excess of the bond strength between the first and second layer. Thus, it would have been obvious to one having ordinary skill in the art through routine experimentation to form the bond strength at the bonded edge region between the sheet form structural component and the first layer greater than about 20 Newtons per 15 millimeters in order to ensure that the adhesive layer between the first and second layers fail with must less strength than the seal between the structural component and the first layer so that only the second layer is peeled from the package during use.

13. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Anderson in view of Brown have been fully considered but they are not persuasive.

In response to Applicant's argument that Brown does not solve the supposed deficiencies pointed out with regard to the

Art Unit: 1772

independent claims being anticipated by Anderson, see the response to those arguments above.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mayer et al (US 2003/0015021 A1) and Mayer et al (USPN 6,460,405 B1).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes
Examiner
Art Unit 1772
CPB
December 15, 2005


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 12/23/05